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VB

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/522, 117 03/09/00 CALDWELL W 627-311CT

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EXAMINER

BALASUBRAMANIAN, V

ART UNIT PAPER NUMBER

1624

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DATE MAILED:

05/24/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

| | | |
|------------------------------|--|---------------------------------|
| Office Action Summary | Application No. 09/522,117 | Applicant(s) Caldwell et al. |
| | Examiner Venkataraman Balasubramanian | Group Art Unit 1624 |

- Responsive to communication(s) filed on _____
- This action is **FINAL**.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

- Claim(s) 1-11 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- Claim(s) _____ is/are allowed.
- Claim(s) _____ is/are rejected.
- Claim(s) _____ is/are objected to.
- Claims 1-11 are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All Some* None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) _____.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

Claims 1-11 are pending.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11, drawn to compound of formula shown in claim 1 where both X and X' are N, namely pyrimidines, classified in class 544, subclasses 299, 301 and 303.
- II. Claims 1-11, drawn to compound of formula shown in claim 1 where X or X' is N, the other CH, namely pyridines, classified in class 546, subclasses 297 and 300.
- III. Claims 1-11, drawn to compound of formula shown in claim 1 where both X and X' are CH, classified in class 564, subclasses 336 etc. depending upon substituents in benzene ring.

Applicant(s), upon electing any one of groups ,must also elect a species in that group.

The inventions are distinct, each from the other because of the following reasons:

Group I , II and III are independent and distinct from each other because they are directed to structurally dissimilar compounds that lack common core namely pyrimidines versus pyridines vs benzenoids. Consequently, the groups have different classifications and require separate prior art searches. They can be made and used independently. Art which may render obvious or anticipate one of the groups would not necessarily do the same for the other group. Each can support a patent as the compounds of each group are capable of being utilized alone not in combination with other members listed in the Markush group.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Due to distinct nature of each of the inventions, a restriction is set forth in writing.

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (703) 305-1674. The examiner can normally be reached on weekdays from 8.30 AM to 5.00 PM.

The fax phone number for the organization where this application or proceeding is assigned (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

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V. Balasubramanian (Bala)

5/22/2000

Mukund J. Shah

MUKUND J. SHAH

SUPERVISORY PATENT EXAMINER

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